THE HONOURABLE MRS. JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE MS. JUSTICE G. ROHINI

WRIT PETITION No. 26373 of 2007

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking stay of collection of the disputed tax of Rs. 1,99,853/- for the assessment year 2002-03 (C.S.T.) arising in pursuance of the stay rejection order of the 3rd respondent dated 22.8.2007 passed in CCT's Ref.No.LIII(3)/265/2007 pending disposal of the appeal before the Sales Tax Appellate Tribunal.

The petitioner is conducting business in edible oils and is an assessee on the rolls of the 1st respondent. The 1st respondent has issued proceedings dated 7.3.2006 for the assessment year 2002-03 under C.S.T. Act determining the gross and net turnovers of the petitioner's business at Rs. 62,88,885/- and 52,80,387/- respectively. Aggrieved by the said order, the petitioner has preferred an appeal before the 2nd respondent and the 2nd respondent by her proceedings dated 23.12.2006 has dismissed the appeal. Challenging the said order, the petitioner has filed an appeal along with a stay petition before the Sales Tax Appellate Tribunal seeking stay of collection of the disputed tax of Rs. 1,99,853/- before the 3rd respondent and the 3rd respondent by his proceedings dated 22.8.2007 has rejected the stay petition. Aggrieved by the said orders, the petitioner has preferred the present Writ Petition.

Heard the learned the learned counsel for the petitioner and

also the learned Special Standing Counsel for the Commercial Taxes.

The controversy is that pending an appeal, application for stay was dismissed by the appellate authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of 1/4th of the liability. Therefore, we set aside the order of the authorities and direct that 1/4th of the penalty and interest shall be paid by the petitioner within a period of eight weeks from the date of receipt of a copy of this Order. For such period, there shall be an unconditional stay and stay shall continue till disposal of the appeal, provided the amount is deposited within the stipulated time. The deposit of amount shall be without prejudice to the rights of the petitioner in appeal. If any amount has already been paid by the petitioner, the same shall be given credit.

Accordingly, the Writ Petition is disposed of. No costs.

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T. MEENA KUMARI, J

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G. ROHINI, J

12.12.2007

N.B.
C.C. by 19.12.2007
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